

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re

Chapter 11

SH 168, LLC,

Case no. 23-41864 (ESS)

Debtor.  
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**NOTICE OF HEARING**

PLEASE TAKE NOTICE, that a hearing will be held on November 16, 2023 at 10:30 a.m. before the Honorable Elizabeth S Stong, United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York to consider the annexed application of BK 38th Lender LLC (“Proponent”) under section 1125 of title 11 of the United States Code and Rule 2002 of the Federal Rules of Bankruptcy Procedure for the entry of an order approving the Proponent’s disclosure statement (“Disclosure Statement”) for the Proponent’s proposed plan of reorganization (“Plan”). Participants must register their appearance with eCourt Appearances, <https://ecf.nyeb.uscourts.gov/cgi-bin/eCourtAppearances.pl>. A participant not able to register online may call or email Judge Stong's courtroom deputy for instructions at (347) 394-1864, [ess\\_hearings@nyeb.uscourts.gov](mailto:ess_hearings@nyeb.uscourts.gov), at least two (2) business days prior to the hearing date.

PLEASE TAKE FURTHER NOTICE, that copies of the Disclosure Statement and Plan are filed with the Clerk of Court and available upon request made to the undersigned.

PLEASE TAKE FURTHER NOTICE, that objections, if any, must be in writing, served upon the undersigned, and filed with the Clerk of the Bankruptcy Court, with a courtesy copy to the Honorable Elizabeth S Stong’s chambers, so as to be received at least seven (7) days prior to the Hearing date.

Dated: New York, New York  
October 12, 2023

BACKENROTH FRANKEL & KRINSKY,  
LLP  
By: s/ Mark Frankel  
488 Madison Avenue  
New York, New York 10022  
(212) 593-1100

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**ORDER APPROVING DISCLOSURE STATEMENT, AND FIXING TIME  
FOR ACCEPTANCES OR REJECTIONS OF PLAN, COMBINED WITH  
NOTICE THEREOF**

Disclosure Statement ("Disclosure Statement") under chapter 11 of the Bankruptcy Code having been filed by BK 38th Lender LLC ("Proponent") on October 12, 2023, referring to the Plan of Reorganization filed by the Proponent on October 12, 20223("Plan"); and it having been determined after hearing on notice that the Disclosure Statement contains adequate information;

IT IS ORDERED, and notice is hereby given that:

A. The Disclosure Statement is approved.

B. \_\_\_\_\_ at \_\_\_\_\_ p.m. (Eastern Time) is fixed as the last day for submitting written acceptances or rejections to the Plan referred to above, and ballots indicating acceptance or rejection of the Plan must be received by email sent to [mfrankel@bfklaw.com](mailto:mfrankel@bfklaw.com) or by delivery to Backenroth Frankel & Krinsky, LLP, at its offices located at 488 Madison Avenue, Floor 23, New York, New York 10022, on or before \_\_\_\_\_ at \_\_\_\_\_ p.m. (Eastern Time), in order to be counted with regard to acceptance or rejection of the Plan.

C. Within 3 days after entry of this order, the Plan, the Disclosure Statement, and a ballot conforming to Official Form 14, shall be mailed to creditors, equity security holders and other parties in interest, and shall be transmitted to the United States Trustee as provided in Fed. R. Bankr. P. 3017(d).

D. \_\_\_\_\_ at \_\_\_\_\_ p.m. (Eastern Time), or as soon thereafter as counsel may heard, is fixed for a hearing on confirmation of the Plan (the "Hearing"), before the Honorable Elizabeth S Stong, at the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York.

E. \_\_\_\_\_ at \_\_\_\_\_ p.m. (Eastern Time) is fixed as the last day for filing and serving written objections to confirmation of the Plan pursuant to Fed. R. Bankr. P. 3020(b)(1), which objections must be filed, served and received by the Proponent's attorneys and the Clerk of Court, with a courtesy copy to the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York

F. You may be receiving this Order because you are a counterparty to an unexpired lease or executory contract with the Debtor. The Plan provides for the assumption of all such unexpired leases and executory contracts. The Debtor has asserted that no counterparty has a claim for cure costs that arose before the May 25, 2023 filing of the Debtor's bankruptcy case, and that any unpaid liabilities that arose postpetition shall be paid in the ordinary course of business. If you wish to assert a cure cost is due, objections must be filed, served and received by the Proponent's attorneys and the Clerk of Court, with a courtesy copy to the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York no later than \_\_\_\_\_ at \_\_\_\_\_ p.m. (Eastern Time). Objections will be heard at the Hearing on \_\_\_\_\_ at \_\_\_\_\_ p.m. (Eastern Time). IF A COUNTERPARTY FAILS TO FILE AND SERVE A TIMELY CURE OBJECTION, THE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION TO THE AMOUNT TO CURE ANY DEFAULT UNDER THE APPLICABLE EXECUTORY CONTRACT OR UNEXPIRED LEASE.

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**BALLOT FOR ACCEPTING OR REJECTING PLAN OF REORGANIZATION**

BK 38th Lender LLC (“Proponent”) filed a plan of reorganization dated October 12, 2023 (the “Plan”) for SH 168, LLC (the “Debtor”) in this case. The Court has approved the Proponent’s Disclosure Statement with respect to the Plan (the “Disclosure Statement”). The Disclosure Statement provides information to assist you in deciding how to vote your ballot. If you do not have a Disclosure Statement, you may obtain a copy from Mark Frankel, Backenroth Frankel & Krinsky, LLP, 488 Madison Avenue, New York, New York, 10022, (212) 593-1100, mfrankel@bfklaw.com. Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court.

You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your claim has been placed in class \_\_\_\_ under the Plan. If you hold claims or equity interests in more than one class, you will receive a ballot for each class in which you are entitled to vote.

If your ballot is not received by Backenroth Frankel & Krinsky, LLP, 488 Madison Avenue, New York, New York, 10022 on or before \_\_\_\_\_ at \_\_\_\_\_ p.m. (Eastern Time), and such deadline is not extended, your vote will not count as either an acceptance or rejection of the Plan.

If the Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote.

**ACCEPTANCE OR REJECTION OF THE PLAN**

The undersigned, the holder of a Class \_\_\_\_ claim against the Debtor in the  
unpaid amount of \$ \_\_\_\_\_

(Check one box only)

☐ ACCEPTS THE PLAN   ☐ REJECTS THE PLAN

Dated: \_\_\_\_\_

Print or type name of Creditor: \_\_\_\_\_

Signature: \_\_\_\_\_

Title (if corporation or partnership) \_\_\_\_\_

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Return this ballot so as to be received on or before \_\_\_\_\_ at \_\_\_\_\_  
p.m. (Eastern Time) by email to [mfrankel@bfklaw.com](mailto:mfrankel@bfklaw.com) or to Backenroth Frankel &  
Krinsky, LLP, 488 Madison Avenue, New York, New York 10022.**